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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,525	10/12/2001	Pranitha Senarith	HRT-57089	3977

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EXAMINER

MANTIS MERCADER, ELENI M

ART UNIT PAPER NUMBER

3737

DATE MAILED: 09/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/977,525

Applicant(s)

SENARITH ET AL.

Examiner

Eleni Mantis Mercader

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manwaring et al.'299 in view of Hwang'779.

Manwaring et al.'299 teach tracking the location of an interventional device within an anatomical site, said system comprising:

a magnetometer system adapted to provide position coordinate data related to the present position of the device as the device is moved about the anatomical site (col. 5, lines 44-64; describing the tracking of the magnetometer as the way to determine the location of the surgical probe and col. 3, lines 19-67 & col. 4, lines 1-22; referring to the current location of the surgical probe and guiding the surgical probe by using the guided trajectory and col. 4, lines 24-67 and subsequent; describing embodiments of positioning a magnet about the anatomical site);

a processor communicating with a database having stored therein the coordinate data of a trajectory, the processor adapted to receive the current position coordinate data, and process the present-position coordinate data (col. 3, lines 31-57 and col. 4, lines 1-22; referring to the controller 18 which determines the current position of the surgical probe and memory 20 storing previously acquired tomograms and also see col. 9, lines 35-43; describing use of tomograms to guide the surgical probe by identifying its current location);

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and a sensory indicator adapted to receive the position indication data from the processor and process the data to provide a sensory indication (col. 3, lines 58-67 and col. 4, lines 1-3; referring to the feedback device indicating the current position of the surgical probe as it relates to the target and the respective trajectory).

Manwaring et al.'299 teach the use of cartesian coordinates (col. 9, lines 35-43) and/or polar coordinates (col. 9, lines 57-67 and col. 10, lines 1-7; describing angular determinations of the surgical probe).

While Manwaring et al.'299 teach the previously determined selected trajectory and the determination of the present location of the probe there is no teaching of determining the future position on the basis of past and repeat positions of the probe/magnetometer.

In the same field of endeavor for navigating objects through use of magnetometers, Hwang'779 teaches the determination of the present position on the basis of past knowledge and using this information to accurately determine the future location (see col. 1, lines 7-67 and col. 2, lines 1-10).

It would have been obvious to one skilled in the art at the time that the invention was made to have modified Manwaring et al.'299 to have incorporated the teachings of Hwang'779 in order to be able to accurately determine the future position of the probe/magnetometer.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blume et al.'580 teach a device and method for specifying magnetic field for surgical applications.

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Guendel'766 teach a method for displaying the tip of the medical instrument situated in the body of the patient.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is 703 308-0899. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on 703 308-2262. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0858.



Eleni Mantis Mercader  
Patent Examiner  
Art Unit 3737

EMM